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In re Application of	:	
SMITH-CARLISS et al.	:	
U.S. Application No.: 10/501,692	:	DECISION ON PETITION
Filing Date: 14 July 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: END041182PCTUS	:	
For: ANALGESICS AND METHODS	:	

This decision is in response to applicants' "Petition for Revive under 37 CFR 1.37(b)" filed 15 July 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 August 2002, applicants filed international application PCT/US02/27936 which claimed priority of an earlier application filed 29 August 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 March 2004.

On 15 July 2004, applicants filed the present petition to revive pursuant to 37 CFR 1.137(b) accompanied by a continuation application.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicants have supplied the proper reply in the form of the filing of a continuation application.

As to item (2), applicants have submitted the requisite petition fee and thus satisfying item (2).

Regarding item (3), applicants' statement that "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" satisfies this element.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

Applicants' petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/US02/27936 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

The application will be forwarded to Office of Initial Patent Examination for continued processing as an application under 35 U.S.C. 111(a).



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